

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Criminal Justice Committee

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BILL: SB 2094

INTRODUCER: Senator Crist

SUBJECT: Juvenile Justice

DATE: March 11, 2009

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	<b>Favorble</b>
2.			CF	
3.			JA	
4.			WPSC	
5.				
6.				

**I. Summary:**

Senate Bill 2094 makes changes to the juvenile justice chapter, along with conforming changes to a few other relevant statutes such as the “Children and Families in Need of Services” (CINS/FINS) statute and the “Comprehensive Child and Adolescent Mental Health Services Act” in an effort to enhance services for youth in the juvenile justice system. Specifically, the bill:

- Encourages the diversion of youth 9 years of age or younger who are found by a court to pose no danger to the community and are unlikely to recidivate;
- Provides changes to the “child in need of services” definition to allow these youth to be served by the CINS/FINS network;
- Adds counties, municipalities and the Department of Juvenile Justice (DJJ) to the specified entities that are encouraged to create pre-arrest or post-arrest diversion programs for youth 9 years of age or younger and youth who are first time misdemeanants;
- Provides rulemaking authority to govern the procedure for ordinary medical care, mental health, substance abuse, and developmental disability services in the DJJ facilities and programs;
- Authorizes the court to commit a juvenile mother or expectant juvenile mother to the DJJ for placement in a mother-infant residential program and requires the DJJ to adopt rules to govern this program; and

- Transfers training responsibility from the defunct Juvenile Justice Standards and Training Commission to the DJJ.

This bill substantially amends the following sections of the Florida Statutes: 394.492, 435.04, 984.03, 985.02, 985.03, 985.125, 985.441, 985.601, and 985.644.

## **II. Present Situation:**

Section 394.492(4), F.S., defines a “child or adolescent at risk of emotional disturbance” as a person under 18 years of age who has an increased likelihood of becoming emotionally disturbed because of certain specified risk factors. Currently, the Department of Children and Family Services (DCF) uses this definition to determine which youth to serve through the Comprehensive Child and Adolescent Mental Health Services Act.

Section 435.04(4)(b), F.S., prescribes Level 2 background screening standards. Applicants for positions with the DJJ are disqualified from employment if they have committed an act of “domestic violence as defined in s. 741.30.” However, the reference to s. 741.30, F.S., does not define acts of domestic violence; it addresses domestic violence injunctions.

Sections 984.03(9), F.S., and 985.03(7), F.S., define “children in need of services,” as a youth who persistently runs away, persistently disobeys his or her parents, or is habitually truant. The definition excludes a youth who has an active referral to the DJJ for a delinquent act from being served by the CINS/FINS network, resulting in the CINS/FINS shelters being unavailable to this youth. These shelters provide short-term services such as crisis intervention, case management, counseling, clothing, food, and shelter on a 24-hour basis. (In FY 07-08, according to the DJJ, there were 578 individual youth, ages nine and younger, that generated 696 referrals to the department.)

Section 985.03(37), F.S., provides a definition of “necessary medical treatment,” but no definition of “ordinary medical care.” Section 985.601(9)(b)7., F.S., requires the DJJ to adopt rules governing medical attention, health, and comfort items in detention facilities; however, there is no such requirement in the rules for providing medical attention in other areas of the continuum of care. As a result, the provision of care is left to policies that are subject to challenge (like the 2006 Health Service Manual that currently serves as a guide for contracted health services) according to the DJJ.

Section 985.125, F.S., allows a law enforcement agency or a school district, in cooperation with the state attorney, to create a prearrest or postarrest diversion program. Diversion is a process designed to keep a youth from entering the juvenile justice system through the legal process. Diversion programs include community arbitration, Juvenile Alternative Services Program (JASP), teen court, civil citation, boy scouts and girl scouts, boys and girls clubs, mentoring programs, and alternative schools.

Section 985.441, F.S., governs the operation of commitment facilities. Currently, the DJJ operates a 20-bed mother/infant program in Miami-Dade County; however, there is no statutory provision for programs designed for pregnant girls or mothers with infants.

Section 985.644, F.S., outlines the DJJ's contracting authority, its personnel standards, and its background screening requirements for providers, employees, volunteers, owners, and operators. There are several duplicative provisions in this section relating to the DJJ's authority to contract with the federal government, its personnel standard requiring good moral character, and its background screening exception for certain volunteers. (The DJJ currently screens all volunteers working directly with youth, regardless of the amount of volunteered hours.) There are also several obsolete provisions referencing the DCF in this section.

Section 985.66, F.S., prescribes standards for the DJJ's juvenile justice training academies, creates the Juvenile Justice Standards and Training Commission, and establishes the Juvenile Justice Training Trust Fund. Subsection (9) of this section provided for the termination of the Juvenile Justice Standards and Training Commission in June 2001. Since that time, the DJJ has taken over the responsibilities of the Commission in operating its training programs.

### **III. Effect of Proposed Changes:**

Senate Bill 2094 makes changes to the juvenile justice chapter, along with conforming changes to a few other relevant statutes such as the "Children and Families in Need of Services" (CINS/FINS) statute and the "Comprehensive Child and Adolescent Mental Health Services Act" in an effort to enhance services for youth in the juvenile justice system. What follows is a more specific description of these changes.

#### **Section 1.**

The bill amends the definition of "child or adolescent at risk of emotional disturbance" in s. 394.492, F.S., the Comprehensive Child and Adolescent Mental Health Services Act, to include the additional risk factor of "being 9 years of age or younger at the time of referral for a delinquent act." This change will allow those youth who qualify to receive treatment services through the community based care network.

#### **Section 2.**

The bill makes a technical correction in s. 435.04, F.S., prescribing Level 2 background screening requirements, so that the statutory reference to domestic violence is to the definition of domestic violence rather than domestic violence injunctions.

#### **Section 3.**

The bill amends the definition of "child in need of services" in the CINS/FINS statute, s. 984.03(9), F.S., to include youth who are 9 years of age or younger who have a delinquency referral. As a result, these youth will be able to receive CINS/FINS services even though an active referral to the DJJ exists.

#### **Section 4.**

The bill creates a new subsection in s. 985.02, F.S., providing legislative intent language for youth 9 years of age or younger in the juvenile justice system. The newly created subsection provides a finding that very young children need age-appropriate services to prevent future delinquent acts. It specifically encourages the diversion of youth 9 years of age or younger who are found by the court to pose no danger to the community and are unlikely to recidivate. It also

requires the DJJ to cooperate with the DCF in providing the most appropriate mental health and substance abuse services to these youth.

**Section 5.**

The bill amends the definition of “child in need of services” in the delinquency statute, s. 985.03(7), F.S., just as it does in the CINS/FINS statute, s. 984.03(9), F.S. (See Section 3 above.)

It also adds a definition of “ordinary medical care in department facilities and programs” to include routine medical procedures such as “inoculations, physical examinations, remedial treatment for minor illnesses and injuries, preventive services, medication management, chronic disease detection and treatment, and other medical procedures that . . . do not involve hospitalization, surgery, or use of general anesthesia.”

**Section 6.**

The bill adds counties, municipalities, and the DJJ as qualified entities that may establish prearrest and postarrest diversion programs by amending s. 985.125, F.S. It also encourages the use of prearrest and postarrest diversion programs for first-time misdemeanants and youth who are 9 years of age or younger.

**Section 7.**

The bill authorizes the court to commit a juvenile mother or expectant juvenile mother to the DJJ for placement in a mother-infant program by amending s. 985.441, F.S. The mother-infant program must be licensed as a childcare facility under s. 402.308, F.S. The bill also requires the DJJ to adopt rules to govern this program.

**Section 8.**

The bill amends s. 985.601, F.S., administering the juvenile justice continuum, to require the DJJ to adopt rules for ordinary medical care, mental health services, substance abuse treatment services, and developmental disabilities services. Additionally, the bill requires the DJJ to coordinate its rulemaking effort with the DCF and the Agency for Persons with Disabilities to ensure there is no encroachment on either agency’s substantive jurisdiction.

**Section 9.**

The bill amends s. 985.644, F.S., prescribing personnel screening and standards, by deleting several duplicative provisions relating to the DCF personnel standards. (The DCF uses s. 39.001, F.S., for its authority to do background screening on its employees so it does not need to be included in the DJJ statute.)

The bill also removes a background screening exemption for DJJ volunteers who work less than 40 hours a month to conform the statute with current practice. (The DJJ currently screens all volunteers who work directly with youth, regardless of the number of volunteer hours worked.)

**Section 10.**

The bill amends s. 985.66, F.S., juvenile justice training academies, to delete obsolete references to the Juvenile Justice Standards and Training Commission (which was terminated on June 30, 2001) and authorizes the DJJ to continue operating the Juvenile Justice Training Program. It also

defines “delinquency program staff” to include supervisory and direct care staff and support staff having direct contact with youth in a delinquency program owned and operated by the DJJ.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DJJ, the bill will have no fiscal impact to the department.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill contains several of the recommendations made by the Juvenile Justice Blueprint Commission in 2008.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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